

Message Text

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PAGE 01 TOKYO 07437 190655Z

12

ACTION IO-14

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P R 060910Z JUN 74 ZDK

FM AMEMBASSY TOKYO

TO HICOMTERPACIS SAIPAN MARIANA ISLANDS

INFO SECSTATE WASHDC 2415

USARBCO MACHINATO//TTPI-LNO

UNCLAS TOKYO 7437

STATE PASS INTEROR FOR DOTA AND OSN

HICOM ALSO FOR STATUS LNO

E.O. 11652: N/A

TAGS: EAID, JA, TQ

SUBJECT: MICRONESIA CLAIMS AGREEMENT

REF: TOKYO 7114

SUMMARY: EMBOFF DISCUSSED IMPLEMENTATION OF AGREEMENT WITH FONOFF. FONOFF BASICALLY AGREEABLE TO TTPI PROPOSAL RE BANK STATEMENT CERTIFICATION PROCEDURES, BUT INSISTS RE-CONFIRMATION NECESSARY FOR MODIFIED CONTRACTS. ACTION REQUESTED: HICOM RESPONSE TO FONOFF POSITION AS OUTLINED BELOW. END SUMMARY.

1. ON JUNE 5 SASAKI OF FONOFF CALLED IN EMBOFF TO REPLY TO EMBOFF'S EARLIER APPROACH (REFTEL) PROPOSING CHANGES TO FONOFF DRAFT DOCUMENT ON IMPLEMENTATION PROCEDURES.

2. RE CERTIFICATIONON BANK STATEMENTS (FONOFF DRAFT, PARA III; REFTEL PARA 2 B), SASAKI SAID REVISED PARAGRAPH BASED ON TTPI DRAFT BASICALLY ACCEPTABLE, BUT FONOFF REQUESTS ONE FURTHER CHANGE AND ONE CLARIFICATION, UNCLASSIFIED

UNCLASSIFIED

PAGE 02 TOKYO 07437 190655Z

AS FOLLOWS:

A) IN PROCESS OF CERTIFICATION, FONOFF WOULD LIKE TO HAVE CONTRACT NUMBER CORRESPONDING TO EACH DEBIT ENTERED ON STATEMENT IN MOST CONVENIENT LOCATIIN CLOSE TO DEBIT. FONOFF REQUESTS ADDITION OF APPROPRIATE WORDING TO REVISED DRAFT PARAGRAPH III TO PROVIDE FOR THIS PROCEDURE. THUS, PARAGRAPH III WOULD READ QTE THE AUTHORIZED UNITED STATES ASSISTANT DISBURSING OFFICER SHALL SUBMIT TO BE BUREAU MONTHLY BANK STATEMENTS REGARDING THE SPECIAL ACCOUNT OPENED IN THE NAME OF THE GOVERNMENT OF THE UNITED STATES AS WELL AS ON THE INTERESTS OF THE SAID SPECIAL ACCOUNT RESPECTIVELY BY THE TWENTIETH DAY OF THE FOLLOWING MONTH, AFTER CERTIFYING THE CORRECTNESS THREOF AND IDENTIFYING EACH DEBIT BY CONTRACT NUMBER CORRESPONDING THEETO. UNQTE.

B) CLARIFICATIION REQUESTED INVOLVES STATUS OF ASSISTANT DISBURSING OFFICER. IF TTPI ANTICIPATES THAT, REGARDLESS OF POSSIBLE PROMOTION OR TRANSFER OF PRESENT INCUMBENT OF THAT POSITION, CHECKS DRAWN AGAINST SPECIAL ACCOUNT WILL ALWAYS BE WRITTEN BY OFFICIAL WITH TITLE OF ASSISTANT DISBURSING OFFICER, REVISED WORDING OF PARAGRAPH III (ABOVE) IS SATISFACTORY. IF, ON OTHER HAN, OFFICIAL WITH SOME OTHER TTLE MAY IN FUTURE BE AUTHORIZED TO WRITE CHECKS AGAINST SPECIAL ACCOUNT, SOME OTHER MORE GENERAL WORDING FOR NEW PARAGRAPH III WOULD BE PREFERABLE TO ALLOW FOR THIS CONTINGENCY.

3. A) RE CONFIRMATIN OF MODIFIED CONTRACTS (FONOFF DRAFT PARA II (2); REFTEL PARA 2 (A), SASAKI SAID THAT THOUGH FONOFF SYMPATHETIC TO TTPI PROBLEMS AND DESIRES RE THIS POINT, GOJ NOT ABLE TO AGREE TO MORE FLEXIBLE PROCEDURES FOR FOLLOWING REASONS: MINISTRY OF INTER-NATIONAL TRADE AND INDUSTRY WILL COMPARE CONFIRMED CONTRACTS TO SUPPLIER'S APPLICATION FOR EXPORT LICENSE IN PROCESS OF GRANTING LATTER, AND IF DISCREPANCY RE KIND OR QUANTITY EXISTS BETWEEN TWO DOCUMENTS LICENSE CANNOT BE ISSUED. ADDITIONALLY, IN FONOFF VIEW, ANY CHANGES RE CONTRACTOR OR METHOD OF PAYMENT WOULD BE MAJOR CHANGES REQUIRING RE-CONFIRMATION. FINALLY, UNCLASSIFIED

UNCLASSIFIED

PAGE 03 TOKYO 07437 190655Z

FONOFF WISHES TO ENSURE THAT ANY CHANGES TO CONTRACTS ARE AGREEABLE TO BOTH PARTIES AND NOT IMPOSED UNILATERALLY. SASAKI SAID FONOFF RECONFIRMATION PROCEDURES HAVE WORKED WELL IN PAST AND SHOULD ACTUALLY CONTRIBUTE TO SPEEDY IMPLEMENTATION OF AGREEMENT.

B) SASAKI CONTINUED THAT JAPANESE SUPPLIERS NORMALLY QUITE CAREFUL TO AVOID MISUNDERSTANDING WITH PURCHASERS

AND, WITH EXCEPTION OF SHIPMENT DATE, HE WOULD NOT ANTICIPATE FREQUENT CHANGES TO CONFIRMED CONTRACTS FROM JAPANESE SIDE. HE SUGGESTED THAT IF PROCUREMENT OFFICER IN PROCESS OF NEGOTIATING CONTRACTS WERE TO STRESS TO SUPPLIER NEC NECESSITY OF AVOIDING MODIFICATIONS THIS WOULD FURTHER LESSEN LIKELIHOOD OF UNWANTED MODIFICATIONS AND RESULTANT NEED FOR RE-CONFIRMATION. IT OCCURS TO EMBASSY THAT SOME KIND OF PENALTY CLAUSE WRITTEN INTO CONTRACT MIGHT LESSEN LIKELIHOOD EVEN MORE.

C) IN ONE CASE WHICH OCCURS TO FONOFF WHERE FINAL SENTENCE OF PARA II (2) WOULD BE OPERATIVE--REASONABLE CHANGES OF SHIPMENT DATE--NOTIFICATION TO FONOFF SHOULD BE IN WRITING, SASAKI SAID.

D) SASAKI CONCLUDED BY EXPRESSING HOPE USG WOULD UNDERSTAND GOJ POSITION AND BE ABLE TO AGREE TO IT.

4. SASAKI REQUESTED ONE FINAL MINOR CHANGE TO FONOFF DRAFT WHICH NECESSARY BECAUSE, IN INTEREST SPEEDY IMPLEMENTATION, TWO GOVTS AGREED TO LIST PRIOR TO AGREEING ON IMPLEMENTATION PROCEDURES; NORMAL GOJ PROCEDURE WOULD HAVE BEEN TO AGREE TO PROCEDURES FIRST AND LIST SECOND. RE SECOND LINE OF PARA I (1), FONOFF REQUESTS DELETION OF WORDS QTE IS TO BE UNQTE AND INSERTION OF WORDS QTE SHOULD BE UNQTE. FONOFF DOES NOT WISH USE PAST TENSE OR DELETE PARAS I (1) AND (2) WHICH TO EMBASSY SEEM NO LONGER NECESSARY BECAUSE THIS WOULD IMPLY BASIC CHANGE IN GOJ AID PROCEDURES AND NECESSITATE TROUBLESOME INTERMINISTERIAL CONSULTATIONS. EMBASSY PERCEIVES NO OBJECTION TO FONOFF REQUEST ON THIS POINT.

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PAGE 04 TOKYO 07437 190655Z

5. EMBASSY ASSUMES THAT CHANGES TO BANK STATEMENT CERTIFICATION PROCEDURE (PARA 2 A ABOVE) AND TO PARA I (1) OF FONOFF DRAFT (PARA 4 ABOVE) ACCEPTABLE TO TTPI. EMBASSY RECOMMENDS ACCEPTANCE. RE CONFIRMATION OF MODIFIED CONTRACTS (PARA 3 ABOVE), EMBASSY WELL AWARE TTPI VIEWS BUT NOW FACED WITH FIRM GOJ POSITION AS WELL. IN VIEW PROBABILITY THAT NUMBER OF CONFIRMED CONTRACTS SUBSEQUENTLY BEING MODIFIED AND THUS REQUIRING RE-CONFIRMATION WOULD BE KEPT SMALL, EMBASSY'S INCLINATION WOULD BE FOR TTPI TO ACCEPT GOJ PROCEDURES IN INTEREST SPEEDY IMPLEMENTATION OF AGREEMENT. HOWEVER, IT FOR TTPI TO DECIDE WHETHER AVOIDANCE OF CUMBERSOME RECONFIRMATION PROCEDURES OR SPEEDY BEGINNING OF PROCUREMENT MORE IMPORTANT. IF TTPI FEELS AVOIDANCE OF RE-

CONFIRMATION PROCEDURES ESSENTIAL AND FURTHER NEGOTIATIONS WITH GOJ NECESSARY, EMBASSY BELIEVES BEST COURSE WOULD BE FOR TTPI TO SEND TEAM TO TOKYO FOR DIRECT NEGOTIATIONS WITH GOJ REPS.

6. ACTION REQUESTED: HICOMTERPACIS PROVIDE CLARIFICATION REQUESTED PARA 2 B ABOVE AND ADVISE WHETHER FONOFF POSITION OUTLINED PARAS 2, 3 AND 4 ABOVE ACCEPTABLE. IF NOT, ADVISE WHETHER TTPI CAN SEND TEAM TO TOKYO TO PURSUE MATTER DIRECTLY WITH GOJ.
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